HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(17)

मामला क्रमांक MA(C) 1260 **सन्** 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	M.A(C) No.1260 of 2007	
	Appellant	Shekhar Sahu, Son of Shri Madan Sahu, aged about 18 years, Resident of Village Khamhariya, Police Station Pulgaon, Tahsil and District Durg (C.G.)
		Versus
	RESPONDENTS 1	Balvinder Singh, Son of Shri Ratan Singh, aged about 50 years, Resident of Shankar Nagar, Durg, Police Station Mohan Nagar, Tahsil and Distrtict Durg (C.G.) (DRIVER OF VEHICLE)
	2	Santosh Khetan, Son of Shri B.N. Khetan, Resident of Kadamberi Nagar, Police Station Mohan Nagar, Durg (C.G.) (OWNER OF VEHICLE)
	3	National Insurance Company, Near Gili Complex, Station Road, Durg (C.G.) (INSURER OF VEHICLE BEARING NO.CG-04/ZD/7504, POLICY NO.320901/31/05/6700004212) Duration 20.12.2005 to 19.12.2006.
	Misc. Appeal u/s 173 of the Motor Vehicles Act.	
	Appearance: Shri P.P. Sahu, Counsel for the appellant.	
	D.B: **Hon'ble Shri Justice L.C. Bhadoo, J & Hon'ble Shri Justice Sunil Kumar Sinha, J.**	
		ORAL ORDER (06.11.2007)

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मामला क्रमांक MA(C) - 1260/07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

L.C.Bhadoo, J.

Heard on admission.

The claimant – Shekhar Sahu has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation amount, being aggrieved by the award dated 22/8/2007 passed by the Fifth Additional Motor Accident Claims Tribunal, Durg (C.G.) in Claim Case No.216/2007, whereby, the learned Tribunal after rejecting the claim of the claimant regarding permanent disability, awarded Rs.19,500/- under the head of medical expenses, Rs.5000/- under the head of pain and sufferings, Rs.2000/- under the head of special diet, Rs.2000/- under the head of future medical treatment and thereby, in all, an award to the tune of Rs.28,500/- has been passed.

Shri Sahu argued that a medical certificate has been given by Dr. Akhilesh Yadav and produced on record, even then, the permanent disability has not been believed.

Having heard learned counsel for the appellant, we have perused the award.

In para 14 and 16, the learned Tribunal has scrutinized the evidence and material produced by the claimant in support of his claim petition. In para 14, the Tribunal has referred to the material produced by the claimant that he in fact sustained the injury in the accident. He was treated in Gayatri Hospital, Durg and he remained in hospital from 14/3/2006 to 25/3/2006. In the papers and discharge ticket, it is mentioned that the left leg was operated on 16/3/2006 and nail was fixed in it. Ex.P/5, Ex.-P/6, Ex.-P/7 and Ex.-P/8 are the

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मामला क्रमांक MA(C)-1260/03 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

documents regarding treatment and operation of the claimant in Gayatri hospital, Durg, which has not been challenged. Dr. Akhilesh Yadav, who was examined as witness No.3 has stated that in fact there was a fracture of right femur bone and that was operated upon. The court believed the papers of Gayatri Hospital, in which, the treatment regarding left leg was shown and did not believe the evidence of Dr. Akhilesh Yadav to the extent that the injury was sustained in the right leg and was operated upon. The District Medical Board, Durg gave permanent disability certificate Ex.P/33, in which, it is mentioned that there was a fracture in the right femur bone. The Court ultimately reached to the conclusion that the papers of Gayatri Hospital, where the Claimant was operated and took treatment, shows that his left leg was operated, whereas, the certificate given by the District Medical Board shows that permanent disability up to 15% was in the right leg. Therefore, on account of this contradiction, the certificate was disbelieved. Moreover, no doctor of the District Medical Board, who has given the certificate, was examined in order to establish the permanent disability and contents of the certificate.

The Tribunal has prima facie disbelieved the certificate being not supported by any Doctors' evidence and contradictory to the treatment received by the claimant. This finding of the Tribunal has been arrived after scrutiny of the material available on record.

In view of the above, we do not find any illegality or infirmity in the judgment of the Tribunal. The compensation amount awarded is

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
Shyna	just and reasonable. There is no reason to interfere with the finding of the Tribunal. The appeal being devoid of merits is liable to be dismissed and is accordingly dismissed. Sd/- L.C. Bhadoo Judge	Sd/- Sunil Kumar Sinha Judge 14/11/07